

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #10	CCRB Case #: 201809638	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 11/09/2018 2:07 PM	Location of Incident: [REDACTED]	Precinct: 28	18 Mo. SOL 5/9/2020	EO SOL 12/24/2020	
Date/Time CV Reported Sat, 11/10/2018 12:00 AM	CV Reported At: Other City agency	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 11/16/2018 11:16 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Terrance Marsh	04975	942127	028 PCT
2. POM Timothy Chin	19601	950203	028 PCT
3. An officer			028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Roberto Coppola	00903	925116	028 PCT
2. POM Sokol Karaduzovic	12310	965766	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: An officer threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Timothy Chin	Abuse: Police Officer Timothy Chin forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
C.POM Terrance Marsh	Abuse: Police Officer Terrance Marsh forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
D.POM Timothy Chin	Force: Police Officer Timothy Chin used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Terrance Marsh	Force: Police Officer Terrance Marsh used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Terrance Marsh	Force: Police Officer Terrance Marsh used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On November 10, 2018, § 87(2)(b) filed this complaint online with 311 and a phone statement was obtained by IAB. The complaint was received at the CCRB on November 16, 2018, under IAB log #2018-44601.

On November 9, 2018, at approximately 2:07 p.m., § 87(2)(b) was at § 87(2)(b) in Manhattan. § 87(2)(b) was using the computer to look for jobs. An unidentified male instructed § 87(2)(b) to leave the facility. § 87(2)(b) continued working on the computer and ignored the unidentified male. § 87(2)(b) called 911, as well as § 87(2)(b) § 87(2)(b). Several minutes later, PO Timothy Chin and PO Terrance Marsh of the 28th Precinct arrived at the location. One of the officers allegedly told § 87(2)(b) that he was going to be either arrested and taken to jail or taken to the hospital if he did not leave (**Allegation A: Abuse of authority – Threat of arrest**, § 87(2)(g)). § 87(2)(b) was placed into handcuffs and was escorted to the lobby where the officers sat § 87(2)(b) on the ground. PO Chin radioed for an ambulance to remove § 87(2)(b) to the hospital (**Allegations B and C: Abuse – forcible removal to hospital**, § 87(2)(g)). § 87(2)(b) tried to stand up and PO Chin and PO Marsh pushed him by the shoulders back into a seated position (**Allegation D and E: Force – pushed**, § 87(2)(g)). PO Marsh then stepped on the chain of § 87(2)(b)'s handcuffs (**Allegation F: Force – Other**, § 87(2)(g)). Two FDNY emergency medical technicians, EMT § 87(2)(b) and EMT § 87(2)(b), arrived and placed § 87(2)(b) onto a stretcher and brought him outside. Sergeant Coppola and his operator PO Sokol Karaduzovic, also of the 28th Precinct, arrived in a police vehicle as § 87(2)(b) was being placed into the ambulance. § 87(2)(b) was brought to § 87(2)(b). This incident resulted in no summonses or arrests.

Body-worn camera footage located in IA 25 (**BR 01**) and IA 26 (**BR 02**), was obtained and relevant portions are discussed below. There was no other known video of the incident. § 87(2)(g)

Findings and Recommendations

Allegation (A) Abuse of Authority: An officer threatened to arrest § 87(2)(b)

It is undisputed that § 87(2)(b) was asked to leave by a staff member at § 87(2)(b) and § 87(2)(b) refused to leave. § 87(2)(b), § 87(2)(b) called 911 twice to report that there was a male refusing to leave the § 87(2)(b) in Manhattan (**BR 03** and **BR 04**). PO Chin and PO Marsh responded to a radio run for a disorderly person (**BR 05**). Whether PO Chin or PO Marsh threatened to arrest § 87(2)(b) was disputed.

In his original complaints to 311 (**BR 06**) and IAB (**BR 07** and **BR 08**), § 87(2)(b) stated that a male who was claiming to be a state police officer instructed him to leave. In his verified statement (**BR 09**) § 87(2)(b) stated that the unidentified male did not introduce himself and did not appear to be a security guard because he was not wearing a uniform. § 87(2)(b) decided to ignore the unidentified male and continued to work on the computer in the computer room at Workforce1. PO Chin and PO Marsh arrived and placed § 87(2)(b) into handcuffs. § 87(2)(b) asked why he was being arrested and neither officer replied. An officer told § 87(2)(b) that he would either be arrested and taken to jail or taken to the hospital. § 87(2)(b) initially stated that the officer made the statement to him inside the computer room and then stated that the

statement may have been made in the elevator. § 87(2)(b) was unable to say which officer made the statement because PO Chin and PO Marsh were both standing behind him when the statement was made.

§ 87(2)(b) did not recall calling 911. In his 911 call (BR 10; audio) and (BR 11; summary), § 87(2)(b) stated that he was physically removed from the Workforce1 facility by an individual who stated he was a state officer.

According to his medical records (BR 12), § 87(2)(b) informed the attending provider that he was at § 87(2)(b). § 87(2)(b) stated that he was given the option of going to the precinct or going to the hospital, so he went to the hospital.

§ 87(2)(b) did not respond to contact attempts (BR 13). In his two calls to 911, (BR 03 and BR 04; audio) and (BR 14; summaries) § 87(2)(b) stated that there was a male refusing to leave the § 87(2)(b) § 87(2)(b) identified himself by name in his first call and provided a physical description of § 87(2)(b). § 87(2)(b) did not provide any additional information in the second call.

PO Chin (BR 15) and PO Marsh (BR 16) consistently stated that they responded to a radio run for a disorderly person. Upon arrival, a security guard informed the officers that § 87(2)(b) used the computer for longer than the allotted time and was refusing to leave. PO Chin and PO Marsh both explained to § 87(2)(b) that he had to leave because he had stayed longer than the allotted time, which was posted on a sign in the computer room. § 87(2)(b) told the officers that he was not going to leave. PO Chin and PO Marsh placed § 87(2)(b) into handcuffs, brought him downstairs, and requested EMS over the radio. PO Chin stated in his CCRB interview that § 87(2)(b) could have been arrested for trespass but he never intended to arrest § 87(2)(b) at any point during the incident and did not remember telling § 87(2)(b) that he could be arrested. PO Marsh stated that he did not recall discussing or offering § 87(2)(b) a choice to be arrested and taken to jail or transported to the hospital. PO Marsh did not recall PO Chin discussing or offering § 87(2)(b) a choice to be arrested and taken to jail or transported to the hospital either.

Because § 87(2)(b) was unable to specify which officer allegedly threatened to arrest him, and due to inconsistent statements and a lack of independent witnesses or video evidence, the allegation was plead against an officer.

New York Penal Code 140.05 (BR 17) states that a person is guilty of trespass when they knowingly enter or remain unlawfully in or upon premises.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Timothy Chin forcibly removed § 87(2)(b) to the hospital.

Allegation (C) Abuse of Authority: Police Officer Terrance Marsh forcibly removed § 87(2)(b) to the hospital.

It was undisputed that PO Chin called for an ambulance over the radio. EMT § 87(2)(b) and EMT Payne responded to the location. Sgt. Coppola arrived on the location as § 87(2)(b) was being placed into the ambulance. § 87(2)(b) was removed to § 87(2)(b).

§ 87(2)(b) (BR 09) stated that he was using the computer at § 87(2)(b) to find a job and was following the rules when he was instructed to leave by an unidentified male.

§ 87(2)(b) never made any threats to the unidentified male. PO Chin and PO Marsh arrived, placed § 87(2)(b) into handcuffs, and he was given the option to be arrested or be taken to the hospital. § 87(2)(b) believed he told the officers that he would rather go to the hospital because he was removed to the hospital. § 87(2)(b) never learned why he was taken to the hospital and stated that he was released without a diagnosis. § 87(2)(b) was not disturbing or violent in any way and he maintained a rational, clear, and disarming demeanor and tone of voice while interacting with PO Chin and PO Marsh.

§ 87(2)(b)'s medical records (BR 12) showed that § 87(2)(b) was taken to § 87(2)(b) at § 87(2)(b). § 87(2)(b) informed the attending provider, that he was at § 87(2)(b). § 87(2)(b) stated that he was given the option of going to the precinct stationhouse or going to the hospital, so he went to the hospital. § 87(2)(b) did not have any medical complaints, claimed to have no psychiatric history, and wanted to leave. § 87(2)(b)'s discharge summary stated that he remained stable and was not in distress. § 87(2)(b) was discharged to home or self-care at approximately 3:48 p.m.

EMT § 87(2)(b) (BR 18) stated that when he arrived at the location, he was told by PO Marsh that there was an emotionally disturbed person (EDP) at the location. EMT § 87(2)(b) was informed by one of the officers that § 87(2)(b) had threatened a security guard at § 87(2)(b), but neither officer specified what § 87(2)(b) had said. § 87(2)(b) appeared upset and repeatedly asked the officers why he was in handcuffs. § 87(2)(b) did not do anything or act in a manner that EMT § 87(2)(b) would have considered to be emotionally disturbed behavior. § 87(2)(b) appeared calm and cooperated with EMT § 87(2)(b) and EMT Payne. Neither PO Chin nor PO Marsh asked EMT § 87(2)(b) to evaluate whether § 87(2)(b) was emotionally disturbed. EMT § 87(2)(b) did not recall hearing PO Chin or PO Marsh speak to a supervisor and neither PO Chin nor PO Marsh informed EMT § 87(2)(b) a supervisor approved the removal.

PO Payne was on restricted duty and could not be interviewed by the CCRB.

PO Chin (BR 15) stated that § 87(2)(b) was calm upon arrival, but became progressively agitated with the security officers. § 87(2)(b) appeared agitated because he was arguing with the security officers and because of his body language, which PO Chin was unable to describe in detail. PO Chin and PO Marsh mutually decided that § 87(2)(b) was an EDP and placed him in handcuffs after showing him the sign which displayed the time limit for using the computers. § 87(2)(b) did not appear to comprehend or understand the sign or why he had to leave. PO Chin decided that something was “not right” with § 87(2)(b) because he was not “getting it.” PO Chin did not recall § 87(2)(b) making any threatening statements about harming himself or others. § 87(2)(b) did not appear to have any weapons and was not considered a physical threat. § 87(2)(b) was verbally threatening to make complaints against the security guards.

PO Chin and PO Marsh escorted § 87(2)(b) to the first-floor lobby. PO Chin believed he was the one who radioed for emergency medical service (EMS), but he did not recall whether he requested a supervisor. While they were waiting for EMS to arrive, § 87(2)(b) started screaming and causing a scene. EMS arrived 10 to 15 minutes later. PO Chin did not order EMS to take § 87(2)(b) to the hospital, and EMS would not have brought § 87(2)(b) to the hospital if they did not think he needed to go. Sgt. Coppola arrived when § 87(2)(b) was placed in the ambulance. PO Chin did not recall discussing the details of the incident with Sgt. Coppola prior to his arrival. PO Chin heard § 87(2)(b) tell an EMT that he had a history of depression.

PO Chin prepared AIDED § 87(2)(b) (BR 19) in which he stated that § 87(2)(b) was verbally aggressive to staff and refused to leave, had a history of depression, and was seen by EMS and removed to the hospital.

PO Chin and PO Marsh (BR 16) consistently described § 87(2)(b) as calm upon arrival, becoming upset with a security guard, and making the decision that § 87(2)(b) was emotionally disturbed after showing him the sign with the time limit. PO Marsh added that § 87(2)(b) became irate, started screaming and waving his arms in front of his own face, and said he would have to be carried out of the location. PO Marsh's statement was inconsistent with PO Chin's in that he stated he placed § 87(2)(b) into handcuffs for the physical safety of himself and others because § 87(2)(b) was "flailing" his arms and yelling that he would have to be dragged out. § 87(2)(b) did not make any specific threats. PO Marsh requested a supervisor and EMS over the radio.

PO Chin and PO Marsh consistently stated that they brought § 87(2)(b) to the first-floor lobby and waited for EMS. PO Marsh added that he informed the EMTs that § 87(2)(b) was an EDP and he got out of hand. PO Chin and PO Marsh consistently stated that Sgt. Coppola arrived as § 87(2)(b) was being placed into the ambulance. PO Marsh added that he explained to Sgt. Coppola that § 87(2)(b) was placed into handcuffs for the safety of himself and others because he became irate. Sgt. Coppola did not verbally approve or object to § 87(2)(b) being taken to the hospital.

Sgt. Coppola (BR 20) stated that he did not recall this incident even after being shown the body-worn camera footage which captured his arrival (Sgt. Coppola was shown the body-worn camera footage located in IA 26 (BR 02) from 15:00 minutes to 16:00 minutes in the recording). Sgt. Coppola stated that he did not remember whether he communicated with PO Chin or PO Marsh prior to his arrival and he did not recall whether he made the decision to send § 87(2)(b) to the hospital.

Both PO Chin and PO Marsh engaged their body-worn cameras after § 87(2)(b) was already placed into handcuffs and brought to the lobby. The sub-clip of PO Chin's body-worn camera footage located in IA 125 (BR 31) captured PO Chin having a conversation with a male who was standing next to the security desk of the first-floor lobby. PO Chin asks the male by the desk to confirm that § 87(2)(b) was acting aggressive toward staff members upstairs and that he went past his time on the computer. The male by the desk says, "Yes." PO Chin then asks the male by the desk to confirm that other staff members wanted § 87(2)(b) to leave and he refused to leave. The male by the desk confirms that other staff members wanted § 87(2)(b) to leave. PO Chin says, "Clearly, he has some sort of mental illness because he's not comprehending anything. So, we're just going to get him to the hospital."

PO Chin's body-worn camera footage (BR 02) did not capture PO Chin seeking approval from a supervisor prior to placing § 87(2)(b) in the ambulance. The following depicts PO Chin's possible communication with Sgt. Coppola. Starting at 12:02 minutes, there is a sound of a phone vibrating. At 12:26 minutes, PO Chin says, "Coppola's calling me, too." PO Chin says, "We're going to need at least two to transport." The video does not clearly depict whether PO Chin said this over the phone or radio. At 14:37 minutes, PO Chin is outside walking toward the ambulance and Sgt. Coppola's vehicle is parked several car lengths in front of the ambulance. PO Chin says, "Yeah we just need one additional to go, transport."

PO Marsh's body-worn camera footage (BR 01) did not depict PO Marsh seeking approval from a supervisor prior to placing § 87(2)(b) in the ambulance. The following depicts PO Marsh's possible communication with Sgt. Coppola and the conversation with Sgt. Coppola

once he arrives. At 11:26 minutes, PO Marsh says, “It’s Coppola, what you calling me for.” PO Marsh then turns to EMT Payne and states that § 87(2)(b) was an EDP and he was refusing to leave. It is not clear whether PO Marsh was speaking to EMT Payne or someone else. At 14:18 minutes, § 87(2)(b) is being brought outside on a stretcher when PO Marsh appears to answer the radio by saying “28 David.” PO Marsh tells Sgt. Coppola over the radio, ‘Now we’re in front of 215 125.’ At 15:17 minutes § 87(2)(b) is being placed into the ambulance as Sgt. Coppola’s vehicle backs up and parks near the rear of the ambulance. PO Chin says, “We just needed one additional possibly for transport because this guy’s pretty violent, like aggressive. That’s all.” Sgt. Coppola says, “Has he simmered down or no?” PO Marsh says, “No.” Sgt. Coppola says, “Why don’t we strap him down?” PO Chin says, “He is strapped down, just in case.” PO Marsh says, “At the time we called you for additional, EMS wasn’t even here. PO Chin says, “Yeah EMS wasn’t here.” PO Marsh says, “We can’t call you if we tussling with him boss.” Sgt. Coppola replies, “Oh alright.”

In the radio communications audio (BR 05; audio) and (BR 21; transcription), sector D officers, either PO Chin or PO Marsh, requested an ambulance for an EDP at 19:47 minutes. At 29:18 minutes, PO Chin requested one additional unit. At 33:48 minutes, Sgt. Coppola requested to speak to sector D officers and asked where they were and whether they needed transport.

§ 87(2)(g)

[REDACTED]

Patrol Guide Procedure 221-13 (BR 22) states that an emotionally disturbed person (EDP) is a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. Officers are to have the EDP removed to hospital in an ambulance.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Force: Police Officer Timothy Chin used physical force against § 87(2)(b)

§ 87(2)(b)

Allegation (E) Force: Police Officer Terrance Marsh used physical force against § 87(2)(b)

§ 87(2)(b)

Allegation (F) Force: Police Officer Terrance Marsh used physical force against § 87(2)(b)

§ 87(2)(b)

It was undisputed that PO Chin and PO Marsh pushed § 87(2)(b) by the shoulders into a seated position on the floor and instructed him to remain seated.

§ 87(2)(b) consistently stated to IAB (**BR 07** and **BR 08**) and in his verified statement (**BR 09**) that he was pushed onto the ground into a seated position. Although § 87(2)(b) did not specifically allege that PO Marsh stepped on the chain of his handcuffs, an allegation was pleaded due to statements made by § 87(2)(b) in the body-worn camera footage.

PO Chin (**BR 15**) described picking § 87(2)(b) up by the arms because he had gone limp as he and PO Marsh were escorting § 87(2)(b) into the elevator. PO Chin described picking § 87(2)(b) up again to bring him out of the elevator into the first-floor lobby. PO Chin did not describe seating § 87(2)(b) onto the floor. PO Chin observed PO Marsh place his foot on top of § 87(2)(b)'s handcuffs after § 87(2)(b) attempted to stand up. PO Marsh (**BR 16**) described himself and PO Chin seating § 87(2)(b) onto the floor after arriving to the first-floor lobby. PO Marsh observed § 87(2)(b) trying to stand up and placed his hands on § 87(2)(b)'s shoulder to prevent him from standing up. PO Marsh did not provide an explanation as to why § 87(2)(b) needed to remain seated. PO Marsh did not recall stepping on the chain of § 87(2)(b)'s handcuffs but stated that he "could have."

The body-worn camera footage sub-clip found in IA 114 (**BR 23**), depicts § 87(2)(b) standing up from a seated position on the ground. PO Chin and PO Marsh are standing on either side of § 87(2)(b). PO Chin's left hand is on § 87(2)(b)'s right shoulder and PO Marsh's right hand is on § 87(2)(b)'s left shoulder. The officers appear to push § 87(2)(b) by shoulder back onto the ground into a seated position. At 00:17 seconds, § 87(2)(b)'s legs are outstretched in front of him and he is seated on his buttocks. § 87(2)(b) shouts, "Why are you standing on my foot?" PO Marsh replies, "Stay down." § 87(2)(b) repositions his legs into a cross-legged position. At 00:42 seconds, § 87(2)(b) shouts as if in pain, "Do not stand on my handcuffs." PO Marsh responds, "Stay down then."

At the time of this incident, § 87(2)(b) was 5'8" tall and weighed 152 pounds (**BR 24**). PO Chin was 6'0" tall and weighed 225 pounds (**BR 25**). PO Marsh was 6'4" tall and weighed 218 pounds (**BR 26**).

§ 87(2)(g)

PO Chin stated that he observed PO Marsh's foot on § 87(2)(b)'s handcuffs. § 87(2)(b)

§ 87(2)(g)

There were bystanders in the lobby, however, they were not hostile or becoming involved in any way.

Patrol Guide procedure 221-01 (**BR 27**) stated that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or when it is reasonable to place a person in custody or to prevent escape from custody. All force must be reasonable under the circumstances. Officers should consider the following factors when determining whether the use of force is reasonable: the nature and severity of the circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, members of service, or bystanders, whether the subject is actively resisting custody or attempting to evade arrest by flight, number of subjects in comparison to the number of members of service, size, age, and condition of subject in comparison to the members of service, and the presence of hostile crowd or agitators. Officers are not to use any level of force on handcuffed subjects unless necessary to prevent injury, escape, or to overcome active physical resistance or assault.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 28**).
- PO Chin has been a member of service for six years and this is the first CCRB complaint to which he has been a subject.
- PO Marsh has been a member of service for 13 years and a subject in two CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b)

- As of October 15, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim (**BR 30**).

Squad No.: 10

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date